IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14138 of 2007
Date of decision: 18.9.2007

Sukhwinder Singh ...Petitioner

Versus

State of Punjab and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE R.S. MADAN

Present: Mr. Arun Palli, Senior Advocate with
Mr. Jaibhagwan, Advocate,
for the petitioner.

K.S.GAREWAL, J.

Collector Agrarian, Barnala on August 20, 1974 declared 29 kanals 13 marlas land in Dhanaula as surplus being beyond the permissible area. This land was a part of the holdings of Dhan Kaur and others. On the basis of this order, mutation 4874 was sanctioned in favour of the State of Punjab, vesting the surplus land in the State free from all encumbrances. Collector Agrarian, Barnala, decided to allot the aforesaid surplus land and through Naib Tehsildar invited applications from the eligible persons for allotment of the land. The land was to be allotted to the persons belonging to schedule castes and applications were invited upto March 10, 2006.

Naib Tehsildar, Dhanaula on July 28, 2006 allotted the surplus land in question to Sukhwinder Singh-petitioner on the basis of draw of lots. This allotment was approved by the Collector Agrarian on August 14, 2006 for a total sale price of Rs. 8,000/- and for the transfer of the land in favour of the petitioner, a certificate was issued. The petitioner deposited the amount.

The petitioner ran into in a procedural hurdle when the authorities found it difficult to take possession of the land from the persons who were occupying it (Hardev Singh son of Dhan Kaur and others).

In the meanwhile, a separate district of Barnala was created with effect from November 8, 2006 and Dhanaula was transferred to sub-tehsil Tapa. Therefore, the petitioner submitted an application to the Collector Agrarian for delivery of the possession of the allotted surplus land but on December 21, 2006 the earlier notification was partially modified and sub tehsil Dhanaula was separately created. Therefore, the Collector Agrarian did not exercise jurisdiction in the petitioner's case proceeded to decide Hardev Singh's application on December 26, 2006 restoring the surplus land back to Hardev Singh and others because the declared surplus land had never been utilized by the Government and, therefore, had to be restored to the original owners. It may be mentioned that in compliance with this order mutation 9344 was entertained. This led the petitioner to file CWP 3351 of 2007 which was disposed of on March 5, 2007 with a direction that the petitioner's representation be considered.

Consequently, the Collector Agrarian, Barnala proceeded to decide the petitioner's representation and came to the conclusion that in view of the order of the Collector Agrarian, Tapa dated December 26,

2006, he was unable to proceed to deliver possession to the petitioner but he did request that mutation 9344 and order dated December 26, 2006 be reviewed.

The order of the Collector Agrarian, Barnala dated April 4, 2007 is annexed as Annexure P/12. On the basis of this, Collector Agrarian also wrote to the District Collector, Barnala on April 5, 2007 recommending that permission be granted to review mutation 9344.

It was necessary to give the brief background of the case because of the contentious nature of the issues involved. The original owners whose land was declared surplus in 1974 and was not utilized, claimed their land back and succeeded. In the meanwhile, the land which was declared surplus was allotted to the petitioner. It is for the revenue officers to decide whose rights would prevail over the land in dispute.

Therefore, this petition is disposed of as premature since Collector, Barnala is yet to take a decision on the reference made to him by the Collector Agrarian on April 4/5, 2007 which are Annexures P/12 and P/13 respectively, good governance demands early action on references Annexures P/12 and P/13.

(K.S. GAREWAL)
JUDGE

18.9.2007 **(R.S. MADAN)**
prem **JUDGE**